

FILED

APR 08 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2010-3722

**JAMES DWIGHT MOORE
P.O. Box 201
Eldridge, CA 95431**

A C C U S A T I O N

**Psychiatric Technician License No. PT
12154**

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about September 24, 1970, the Board of Vocational Nursing and Psychiatric Technicians issued Psychiatric Technician License Number PT 12154 to James Dwight Moore (Respondent). The Psychiatric Technician License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on September 30, 2013, unless renewed.

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1 board may inquire into the circumstances surrounding the commission of the crime in order to fix
2 the degree of discipline.

3 ...

4 "(f) Conviction of any offense substantially related to the qualifications, functions, and
5 duties of a psychiatric technician, in which event the record of the conviction shall be conclusive
6 evidence of the conviction. The board may inquire into the circumstances surrounding the
7 commission of the crime in order to fix the degree of discipline."

8 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
9 revoke a license when it finds that the licensee has been convicted of a crime substantially related
10 to the qualifications, functions, or duties of a licensed psychiatric technician.

11 9. California Code of Regulations, title 16, section 2576.6 states, in pertinent part:

12 ...

13 "(b) A licensed psychiatric technician shall adhere to standards of the profession and shall
14 incorporate ethical and behavioral standards of professional practice which include but are not
15 limited to the following:

16 ...

17 "(4) Abstaining from chemical/substance abuse; and

18 ...

19 "(c) A violation of this section constitutes unprofessional conduct for purposes of initiating
20 disciplinary action."

21 10. California Code of Regulations, title 16, section 2578, states, in pertinent part:

22 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
23 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
24 considered to be substantially related to the qualifications, functions or duties of a licensed
25 psychiatric technician if to a substantial degree it evidences present or potential unfitness of a
26 licensed psychiatric technician to perform the functions authorized by his license in a manner
27 consistent with the public health, safety, or welfare. . . ."

1 **COST RECOVERY**

2 11. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINARY ACTION**

7 (Substantially Related Conviction)
8 (Bus. & Prof. Code §§ 490 and 4521, subd. (f))

9 12. Respondent has subjected his Psychiatric Technician License to disciplinary action
10 under Code sections 490 and 4521, subdivision (f), in that he was convicted of a crime
11 substantially related to the qualifications, functions, or duties of a psychiatric technician.
12 Specifically, on or about May 12, 2011, in Superior Court of California, County of Napa, Case
13 Number CR156473, entitled *The People of the State of California vs. James Dwight Moore*,
14 Respondent was convicted by his plea of nolo contendere of violating Vehicle Code section
15 23152, subdivision (b), (driving with a blood alcohol content of .08% or higher), a misdemeanor.
16 Respondent admitted the enhancements of driving with a blood alcohol content of .15% or higher,
17 and of being convicted within 10 years of the commission of the offense of violating Vehicle
18 Code section 23152, subdivision (a), (driving under the influence of alcohol). The imposition of
19 sentence was suspended and Respondent was placed on formal probation for 3 years, upon terms
20 and conditions, which included, but were not limited to, the following: serve 20 days in jail with
21 credit for time served of 11 days; pay a fine of \$3,334; install an ignition interlock in his vehicle
22 for 1 year; enroll in, pay for, and successfully complete an outpatient or residential program if
23 required by the probation officer; do not drink or possess alcoholic beverages; and submit to a
24 blood, breath, or urine test if requested by any law enforcement or probation officer. The factual
25 circumstances of the conviction are as follows:

26 a. On March 1, 2011, in Napa County, a California Highway Patrol (CHP) officer pulled
27 over Respondent, who was driving the subject vehicle, a red Chrysler sedan (SV), which was
28 weaving slowly within a freeway lane, then drifting slowly within that lane, and traveling at
approximately 40 mph in a 55 mph zone. The CHP officer contacted Respondent through the

1 SV's front passenger side window and detected the odor of an alcoholic beverage coming from
2 within the vehicle. The CHP officer noticed that Respondent's eyes were red/watery and his
3 speech was slurred and delayed. Respondent admitted that he drank two glasses of wine at his
4 home and also took his anti-depressant pill at around 6:00 p.m. Respondent failed to complete
5 the field sobriety tests, as instructed and demonstrated. Based on the CHP officer's observations
6 of Respondent's driving, his objective signs of intoxication, and his poor performance of the field
7 sobriety tests, the CHP officer determined that Respondent was driving under the influence of an
8 alcoholic beverage and/or drugs and could not safely operate a motor vehicle. Respondent was
9 arrested for driving under the influence. Respondent elected to take a chemical blood test, which
10 showed that his blood alcohol content was .18 percent.

11 **SECOND CAUSE FOR DISCIPLINARY ACTION**

12 ((Unprofessional Conduct - Used Alcohol to a Dangerous Extent)
13 (Bus. & Prof. Code §4521. subd. (a)(5))

14 13. The allegations of paragraph 12 are realleged and incorporated by reference as if fully
15 set forth.

16 14. Respondent has subjected his Psychiatric Technician License to disciplinary action
17 under section 4521, subdivision (a)(5), of the Code on the grounds of unprofessional conduct in
18 that on or about March 1, 2011, Respondent used alcohol to an extent or in a manner dangerous
19 or injurious to himself, or the public, as set forth in paragraph 12, above.

20 **THIRD CAUSE FOR DISCIPLINARY ACTION**

21 (Unprofessional Conduct - Conviction Involving Controlled Substance)
22 (Bus. & Prof. Code §4521. subd. (a)(6))

23 15. The allegations of paragraph 12 are realleged and incorporated by
24 reference as if fully set forth.

25 16. Respondent has subjected his Psychiatric Technician License to disciplinary action
26 under section 4521, subdivision (a)(6), of the Code on the grounds of unprofessional conduct, in
27 that on or about May 12, 2011, Respondent was convicted of a crime involving the consumption
28 of alcohol, as set forth in paragraph 12, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Psychiatric Technician License Number PT 12154, issued to James Dwight Moore;
2. Ordering James Dwight Moore to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: **APR 08 2013**



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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